

# 1122 Program Quote Request | GSA Purchases

This Request for Quote template is intended for use by New York State Agencies making purchases in excess of \$50,000 from the 1122 Program. For more information about the 1122 Program, certification process, and steps to purchase, please go to the [1122 Program web page](#).

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## Instructions

**This entire document and all related Attachments must be completed and sent to OSC for contract approval.** See form 1122E Procurement Record Checklist for additional required documentation which must be sent to OSC.

**State Agencies** should review and make changes to the following sections:

### 1.1 Overview

In this section the State Agency should type in the name of their agency and type of product being requested.

### 2.1 Method of Quote Selection

OGS has provided suggested language for this section. Please review and change as needed to meet your agencies specific requirements.

### 2.2 Price

OGS has provided suggested language for this section. Please review and change as needed to meet your agencies specific requirements.

### 2.3 Method of Payment

OGS has included information for method of payment for agencies that are NYS Business Services Center (BSC) customers. If your agency is **not a BSC customer**, please change this section to reflect the correct method(s) of payment.

### 3.1 Product Specifications

This section should include a description of the item or items to be purchased and any generic specification necessary to solicit Bids from companies who supply the products.

### 3.2 Delivery

This section should include an address where the products are to be delivered and any special circumstances for delivery (i.e. dock, inside delivery etc.), number of days expected, terms (f.o.b. destination), and any other information necessary for proper delivery.

### 5.5 Opportunities for New York State Certified Minority and Women-Owned Business Enterprises

MWBE Goals: GSA Schedule Contracts have Federally assigned disadvantaged business enterprise utilization plans, therefore OGS has not included MWBE goal language in this template. OGS suggests the language as included in Section 5.5 Opportunities for New York State Certified Minority and Women-Owned Business Enterprises; however you may use your agency's RFQ document, with agency specific M/WBE language, when seeking quotes.

### 5.6 Participation Opportunities For New York State Certified Service-Disabled Veteran Owned Businesses

SDVOB Goals: OGS has not included specific SDVOB goal language in this template. It is recommended that agencies review the language included in Section 5.6 Participation Opportunities For New York State Certified Service-Disabled Veteran Owned Businesses and revise the Section with appropriate agency specific SDVOB language, when seeking quotes.

### Attachment 2: Required Forms, Certifications, Terms and Conditions

Agencies should link in appropriate places to your EEO-100 and MWBE-100 forms as well as any other Agency specific information such as declarations for insurance documents.

**Offerors** should review and complete the following attachments:

### Attachment 1: Quote Proposal Cost & Checklist

Insert contractor name, GSA contract information, product information and quote price, and complete General Requirements section.

### Attachment 2: Required Forms, Certifications, Terms and Conditions

Complete/sign each Form and return to the requesting Agency with completed Attachment 1.

# 1122 Program | Quote Request

**Issued By**  
Agency Name

**Date**

**Questions Date**  
Date

**Designated Contact**  
Name

**Title**

**Email**

**Alternate Contact**  
Name

**Title**

**Email**

## 1. Introduction

### 1.1 Overview

The \_\_\_\_\_ is accepting quotes for \_\_\_\_\_.

\_\_\_\_\_ is a New York State Public Safety Agency certified to make acquisitions under the 1122 Program. It is necessary to seek quotes by this format since GSA Contracts, while available for use under the 1122 Program, are not NYS contracts. All quotes exceeding \$50,000 must utilize an RFQ document that should be attached to the GSA e-Buy quote system.

### 1.2 Information to Furnish with Quote

Vendor may submit with their quote detailed specifications, circulars, brochures, marketing materials and other materials on the product to be furnished. Any materials or terms that conflict with the provisions of this RFQ **will not** be considered. The State reserves the right to request any additional information deemed necessary for the proper evaluation of quotes. The vendor shall indicate in the spaces provided on the Quote Proposal Form the name of the requesting entity, the manufacturer's name, catalog references or model number of the product or products offered and all other information requested.

## 2. Administrative Information

### 2.1 Method of Quote Selection

Selection shall be made on the basis of lowest total cost to one responsible and responsive vendor offering a quote, whereas the product(s) offered meet the requesting entities form, function and utility, and as outlined in their RFQ.

Formal selection will be made by issuance of a Purchase Order(s) to the vendor that agrees to all terms and conditions, and provides all required completed documents as with regard to this RFQ.

### 2.2 Price

Quote price shall include all services required to provide the items as specified, including travel, licenses, insurance, administrative, customs, duties, charges and ancillary costs. Quote price includes any and all costs associated with providing the items such as those noted below:

- Delivery from factory/manufacturer to dealer/distributor destination
- Labor
- Emissions
- Surcharges
- Administrative Costs, Overhead, Profit, etc.
- Delivery is F.O.B. destination

### 2.3 Method of Payment

Upon delivery and acceptance of product(s) specified, invoices shall be submitted to your designated payment office. The Purchasing Agency must demonstrate an attempt to secure three quotes. If three quotes were not received, the Purchasing Agency must supply a justification. Invoices will be processed in accordance with established procedures of the Office of General Services and the Office of the State Comptroller (OSC) and payments will be subject to the prompt payment provisions of Article XI-A of the New York State Finance Law. Invoices must contain the Purchase Order number and Invoices shall be consistent with the Purchase Order issued. Invoices without the required information will be returned to Contractor to be completed as required. **All invoices must be submitted for payment to either:**

NYS OFFICE OF GENERAL SERVICES  
c/o OGS BUSINESS SERVICES CENTER  
BUILDING 5, 5TH FLOOR  
1220 WASHINGTON AVE.  
ALBANY, NEW YORK 12226-1900

Or by email to: [accountspayable@ogs.ny.gov](mailto:accountspayable@ogs.ny.gov)

### 3. Specifications

#### 3.1 Product Specifications

*This section should include a description of the item or items to be purchased and any generic specification necessary to solicit Bids from companies who supply the products. **NOTE:** Attachment 1 – General Requirements should also be completed by entering requirements product(s) should comply with.*

#### 3.2 Delivery

*This section should include an address where the products are to be delivered and any special circumstances for delivery (ex:dock, inside delivery etc), number of days expected, terms (f.o.b. destination), and any other information necessary.*

#### 3.3 Warranty

Contractor hereby warrants and represents that products, components or parts specified and furnished by or through Contractor, whether specified and furnished individually or as a system, shall be free from defects in material and workmanship and will conform to all requirements of the Contract.

During the product warranty period, defects in the materials or workmanship of products, components, or parts specified and furnished by or through Contractor, whether specified and furnished individually or as a system, shall be repaired or replaced by Contractor at no cost or expense to the State. Contractor shall extend the product warranty period for individual products, or for the system, as applicable, by the cumulative periods of time, after notification, during which an individual product, or the system as a whole, requires repairs or replacement resulting in down time or is in the possession of the Contractor, its agents, officers, subcontractors, distributors, resellers or employees (“extended warranty”).

All warranties included in this RFQ shall survive the termination of any resulting Contract.

### 4. Terms of Contract

It is the intention of the State to make a one-time purchase via Purchase Order. The Contract shall commence upon Office of the State Comptroller (OSC) approval of said Purchase Order and shall terminate after the products are delivered and accepted, and payment furnished by the State.

#### 4.1 Electronic Payment

Contractor shall provide a complete and accurate billing invoice in order to receive payment. The billing invoice submitted must contain all information and supporting documentation required by the Contract, the agency, and the State Comptroller. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, at the Commissioner’s sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller’s procedures to authorize electronic payments. Authorization forms are available at the State Comptrollers website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by e-mail at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us), or by phone at 518-486-1255. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller’s electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

#### 4.2 Past Practice

The failure to exercise any right hereunder in the past shall not operate as a waiver of such right. No breach of this Agreement shall be deemed waived unless such waiver shall be in writing and signed by the party claimed to have waived. No waiver of any breach of the Agreement at any time in the past shall constitute a waiver of subsequent breach.

#### 4.3 Dispute Resolution

It is the policy of the THE STATE to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to Bid solicitations, Contract Awards, and Contract administration. THE STATE encourages vendors to seek resolution of disputes informally, through consultation with AGENCY staff, prior to commencing a formal dispute process. All such matters will be accorded impartial and timely consideration. A copy of the THE STATE (OR OSC PROTEST POLICY) Dispute Resolution Procedures for Vendors may be obtained by contacting the Designated Contacts.

#### 4.4 Contractor Responsibilities

The Contractor shall be solely responsible for all compliance with terms and conditions in this RFQ or any resulting Contract. The Contractor may not engage a subcontractor or dealer, distributor, reseller, or any other party to carry out any part of this Contract without the prior written consent of THE STATE. The Contractor accepts full responsibility for the actions of any employee who carries out any of the provisions of any Contract resulting from this RFQ.

#### 4.5 Inspection of Books

It is expressly understood and agreed that THE STATE and the New York State Comptroller shall have the right to inspect and audit the Contractor's records covered under this Agreement, in accordance with his statutory responsibility to examine the books and accounts of every Agency. The New York State Comptroller requires, and the Contractor agrees to, the retention of all material that is pertinent to an audit of the operations under any Contract resulting from this RFQ for a full six-year period.

#### 4.6 Glossary of Terms

- “**Issuing Office**” shall mean the entity releasing this Request For Quote document, which shall also mean THE STATE.
- “**Contractor**”/”**Vendor**” shall mean a successful company awarded a Contract pursuant to this RFQ.
- “**Request For Quote**” or “**RFQ**” shall mean this document.
- The “**State**” shall mean The People of the State of New York, including the Request For Quote (RFQ) Issuing Office, which shall also mean THE STATE.
- “**Commissioner**” shall mean the Commissioner of THE STATE or duly authorized representative.
- “**Offeror**” or “**Offeror**” or “**Bidder**” shall mean any person, partnership, firm, corporation or other authorized entity submitting a quote to the State pursuant to this RFQ.

### 5. Contract Clauses and Requirements

#### 5.1 Appendix A / Order of Precedence

Appendix A - Standard Clauses for New York State Contracts, dated January 2014, attached hereto, is hereby expressly made a part of this solicitation document as fully as if set forth at length herein. Appendix A is a separate document to this RFQ and shall be retained for reference by the Bidder.

The agreement resulting from a successful Award will include the following documents. Conflicts between these documents will be resolved in the following descending order of precedence:

1. Appendix A
2. Purchase Order
3. Request For Quote (RFQ) (this document) with any addenda
4. Selected Contractor's Bid

#### 5.2 Procurement Lobbying Requirement

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the State and an Offeror/Bidder during the procurement process. An Offeror/Bidder is restricted from making contacts from the earliest notice of intent to solicit offers/Bids through final Award and approval of the Contract by the State and, if applicable, the Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a). Designated staff, as of the date hereof, is identified on the first page of this solicitation. AGENCY employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offeror/Bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for Contract Award and in the event of two findings within a four-year period; the Offeror/Bidder is debarred from obtaining governmental Procurement Contracts. Further information about these requirements can be found on the OGS website: <https://ogs.ny.gov/acpl>

#### 5.3 Contractor Insurance Requirements

The Bidder shall be required to procure, at its sole cost and expense, all insurance required in this section.



The Bidder shall be required to provide proof of compliance with the requirements of this section, as follows:

- Proof of Workers' Compensation and Disability Benefits Insurance shall be provided at the time of Bid submission;
- Proof of all other insurance shall be provided in accordance with Section B below;
- After Award, the Contractor shall be required to provide proof of all insurance after renewal or upon request according to the timelines set forth in Section A.13 below.

Contractors shall be required to procure, at their sole cost and expense, and shall maintain in force at all times during the term of any Contract resulting from this Solicitation, policies of insurance as required by this section. All insurance required by this section shall be written by companies that have an A.M. Best Company rating of "A-," Class "VII" or better. In addition, companies writing insurance intended to comply with the requirements of this Attachment should be licensed or authorized by the New York State Department of Financial Services to issue insurance in the State of New York. THE STATE may, in its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when certificates and/or other policy documents are accompanied by a completed Excess Lines Association of New York (ELANY) affidavit or other documents demonstrating the company's strong financial rating. If, during the term of a policy, the carrier's A.M. Best rating falls below "A-," Class "VII", the insurance must be replaced, on or before the renewal date of the policy, with insurance that meets the requirements above.

1. Bidders and Contractors shall deliver to THE STATE evidence of the insurance required by this RFQ and any Contract resulting from this RFQ in a form satisfactory to THE STATE. Policies must be written in accordance with the requirements of the paragraphs below, as applicable. While acceptance of insurance documentation shall not be unreasonably withheld, conditioned or delayed, acceptance and/or approval by THE STATE does not, and shall not be construed to, relieve Bidders or Contractors of any obligations, responsibilities or liabilities under this Solicitation or any Contract resulting from this Solicitation.
2. The Contractor shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the term of the Contract.

**A. General Conditions Applicable to Insurance.** All policies of insurance required by this RFQ or any Contract resulting from this RFQ shall comply with the following requirements:

1. **Coverage Types and Policy Limits.** The types of coverage and policy limits required from Bidders and Contractors are specified in Paragraph B Insurance Requirements below.
2. **Policy Forms.** Except as otherwise specifically provided herein, or agreed to in the Contract resulting from this Solicitation, all policies of insurance required by this RFQ shall be written on an occurrence basis.
3. **Certificates of Insurance/Notices.** Bidders and Contractors shall provide THE STATE with a Certificate or Certificates of Insurance, in a form satisfactory to THE STATE as detailed below, and pursuant to the timelines set forth in Section B below. Certificates shall reference the Solicitation or Award number and shall name The New York State Office of General Services, Business Services Center, 1220 Washington Avenue, State Campus Building 5, Purchasing, Albany, New York 12226 as the certificate holder.

Certificates of Insurance shall:

- Be in the form acceptable to THE STATE and in accordance with the New York State
- Insurance Law (e.g., an ACORD certificate);
- Disclose any deductible, self-insured retention, aggregate limit or exclusion to the policy that materially changes the coverage required by this Solicitation or any Contract resulting from this Solicitation;
- Refer to this Solicitation and any Contract resulting from this Solicitation by Award number;
- Be signed by an authorized representative of the referenced insurance carriers; and
- Contain the following language in the Description of Operations / Locations / Vehicles section: The People of the State of New York, the State, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees are included as an additional insured on endorsement CG 20 10 11 85 (or endorsements that provide equivalent coverage, such as the combination of CG 20 10 04 13 (covering ongoing operations) and CG 20 37 04 13 (covering completed operations)), and General liability coverage is provided on the current edition of Commercial General Liability Coverage Form CG 00 01 (or a form that provides equivalent coverage). Additional insured protection afforded is on a primary and noncontributory basis. A waiver of subrogation is granted in favor of the additional insureds.

Only original documents (certificates of insurance and any endorsements and other attachments) or electronic versions of the same that can be directly traced back to the insurer, agent or broker via e-mail distribution or similar means will be accepted.

THE STATE generally requires Contractors to submit only certificates of insurance and additional insured endorsements,

although THE STATE reserves the right to request other proof of insurance. Contractors are requested to refrain from submitting entire insurance policies, unless specifically requested by THE STATE. If an entire insurance policy is submitted but not requested, THE STATE shall not be obligated to review and shall not be chargeable with knowledge of its contents. In addition, submission of an entire insurance policy not requested by THE STATE does not constitute proof of compliance with the insurance requirements and does not discharge Contractors from submitting the requested insurance documentation.

4. **Primary Coverage.** All insurance policies shall provide that the required coverage shall be primary and non-contributory to other insurance available to the People of the State of New York, the New York State THE STATE, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees. Any other insurance maintained by the People of the State of New York, the New York State THE STATE, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees shall be excess of and shall not contribute with the Bidder/Contractor's insurance.
5. **Breach for Lack of Proof of Coverage.** The failure to comply with the requirements of this RFQ at any time during the term of the Contract shall be considered a breach of the terms of the Contract and shall allow the People of the State of New York, the New York State THE STATE, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees to avail themselves of all remedies available under the Contract or at law or in equity.
6. **Self-Insured Retention/Deductibles.** Certificates of Insurance must indicate the applicable deductibles/self-insured retentions for each listed policy. Deductibles or self-insured retentions above \$100,000.00 are subject to approval from THE STATE. Such approval shall not be unreasonably withheld, conditioned or delayed. Bidders and Contractors shall be solely responsible for all claim expenses and loss payments within the deductibles or self-insured retentions. If the Bidder/Contractor is providing the required insurance through self-insurance, evidence of the financial capacity to support the self-insurance program along with a description of that program, including, but not limited to, information regarding the use of a third-party administrator shall be provided upon request.
7. **Subcontractors.** Prior to the commencement of any work by a Subcontractor, the Contractor shall require such Subcontractor to procure policies of insurance as required by this RFQ and maintain the same in force during the term of any work performed by that Subcontractor.
8. **Waiver of Subrogation.** For the Commercial General Liability Insurance and Business Automobile Liability Insurance required below, the Contractor shall cause to be included in each of its policies insuring against loss, damage or destruction by fire or other insured casualty a waiver of the insurers right of subrogation against THE STATE, or, if such waiver is unobtainable (i) an express agreement that such policy shall not be invalidated if Contractor waives or has waived before the casualty, the right of recovery against THE STATE or (ii) any other form of permission for the release of THE STATE. A Waiver of Subrogation Endorsement shall be provided upon request. A blanket Waiver of Subrogation Endorsement evidencing such coverage is also acceptable.
9. **Additional Insured.** For the Commercial General Liability Insurance and Business Automobile Liability Insurance required below, the Contractor shall cause to be included in each of its policies ISO form CG 20 10 11 85 (or a form or forms that provide equivalent coverage, such as the combination of CG 20 10 04 13 and CG 20 37 04 13) and form CA 20 48 10 13 (or a form or forms that provide equivalent coverage) naming as additional insureds: The People of the State of New York, the New York State THE STATE, any entity authorized by law or regulation to use the Contract and their officers, agents, and employees. An Additional Insured Endorsement evidencing such coverage shall be provided to THE STATE pursuant to the timelines set forth in Section B below. A blanket Additional Insured Endorsement evidencing such coverage is also acceptable. For Contractors who are self-insured, Contractor shall be obligated to defend and indemnify the above-named additional insureds with respect to Commercial General Liability and Business Automobile Liability, in the same manner that Contractor would have been required to pursuant to this RFQ had Contractor obtained such insurance policies.

As clarification, "The People of the State of New York" means the State of New York and its subsidiary governmental entities. This is the name in which the State, as a governmental entity, enters into contracts, takes title to property, and initiates legal actions. Using the term "People" does not mean that the insurer is insuring all residents of New York State; rather, it means that the State government is being insured.

10. **Excess/Umbrella Liability Policies.** Required insurance coverage limits may be provided through a combination of primary and excess/umbrella liability policies. If coverage limits are provided through excess/umbrella liability policies, then a Schedule of underlying insurance listing policy information for all underlying insurance policies (insurer, policy number, policy term, coverage and limits of insurance), including proof that the excess/umbrella insurance follows form must be provided upon request.

11. **Notice of Cancellation or Non-Renewal.** Policies shall be written so as to include the requirements for notice of cancellation or non-renewal in accordance with the New York State Insurance Law. Within five (5) business days of receipt of any notice of cancellation or non-renewal of insurance, the Contractor shall provide THE STATE with a copy of any such notice received from an insurer together with proof of replacement coverage that complies with the insurance requirements of this Solicitation and any Contract resulting from this Solicitation.
12. **Policy Renewal/Expiration.** Upon policy renewal/expiration, evidence of renewal or replacement of coverage that complies with the insurance requirements set forth in this Solicitation and any Contract resulting from this Solicitation shall be delivered to THE STATE. If, at any time during the term of any Contract resulting from this Solicitation, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this Solicitation or any Contract resulting from this Solicitation, or proof thereof is not provided to THE STATE, the Contractor shall immediately cease work. The Contractor shall not resume work until authorized to do so by THE STATE.
13. **Deadlines for Providing Insurance Documents after Renewal or Upon Request.** As set forth herein, certain insurance documents must be provided to the THE STATE contact identified in the Contract Award Notice after renewal or upon request. This requirement means that the Contractor shall provide the applicable insurance document to THE STATE as soon as possible but in no event later than the following time periods:
  - For certificates of insurance: 5 business days
  - For information on self-insurance or self-retention programs: 15 calendar days
  - For other requested documentation evidencing coverage: 15 calendar days
  - For additional insured and waiver of subrogation endorsements: 30 calendar days

Notwithstanding the foregoing, if the Contractor shall have promptly requested the insurance documents from its broker or insurer and shall have thereafter diligently taken all steps necessary to obtain such documents from its insurer and submit them to THE STATE, THE STATE shall extend the time period for a reasonable period under the circumstances, but in no event shall the extension exceed 30 calendar days.

#### ***B. Insurance Requirements***

Bidders and Contractors shall obtain and maintain in full force and effect, throughout the term of any Contract resulting from this Solicitation, at their own expense, the following insurance with limits not less than those described below and as required by the terms of any Contract resulting from this Solicitation, or as required by law, whichever is greater:

<b>Insurance Type</b>		<b>Proof of Coverage is Due</b>
<b>Commercial General Liability</b>	Not less than \$1,000,000 each occurrence	At time of Bid submission and updated in accordance with Contract
General Aggregate	\$1,000,000	
Products — Completed Operations Aggregate	\$500,000	
Personal and Advertising Injury	\$500,000	
<b>Business Automobile Liability Insurance</b>	Not less than \$1,000,000 each occurrence	
<b>Workers' Compensation</b>		
<b>Disability Benefits</b>		

1. **Commercial General Liability Insurance:** Such liability shall be written on the current edition of ISO occurrence form CG 00 01, or a substitute form providing equivalent coverage and shall cover liability arising from premises operations, independent Contractors, products-completed operations, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a Contract (including the tort liability of another assumed in a Contract) and explosion, collapse & underground coverage.

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate
- Products – Completed Operations Aggregate
- Personal and Advertising Injury
- Each Occurrence

Coverage shall include, but not be limited to, the following:

- Premises liability;
- Independent Contractors;
- Blanket contractual liability, including tort liability of another assumed in a Contract;
- Defense and/or indemnification obligations, including obligations assumed under the Contract;
- Cross liability for additional insureds;
- Products/completed operations for a term of no less than three (3) years, or no less than three one (1) year terms, commencing upon acceptance of the work, as required by the Contract;
- Explosion, collapse and underground hazards; and
- Contractor means and methods.

## 2. **Business Automobile Liability Insurance**

Such insurance shall cover liability arising out of any automobile used in connection with performance under the Contract, including owned, leased, hired and non-owned automobiles bearing or, under the circumstances under which they are being used, required by the Motor Vehicles Laws of the State of New York to bear, license plates.

In the event that the Contractor does not own, lease or hire any automobiles used in connection with performance under the Contract, the Contractor does not need to obtain Business Automobile Liability Insurance, but must attest to the fact that the Contractor does not own, lease or hire any automobiles used in connection with performance under the Contract on a form provided by THE STATE. If, however, during the term of the Contract, the Contractor acquires, leases or hires any automobiles that will be used in connection with performance under the Contract, the Contractor must obtain Business Automobile Liability Insurance that meets all of the requirements of this section and provide proof of such coverage to THE STATE in accordance with the insurance requirements of any Contract resulting from this Solicitation.

In the event that the Contractor does not own or lease any automobiles used in connection with performance under the Contract, but the Contractor does hire and/or utilize non-owned automobiles in connection with performance under the Contract, the Contractor must: (i) obtain Business Automobile Liability Insurance as required by this Solicitation or any Contract resulting from this Solicitation, except that such insurance may be limited to liability arising out of hired and/or non-owned automobiles, as applicable; and (ii) attest to the fact that the Contractor does not own or lease any automobiles used in connection with performance under the Contract, on a form provided by THE STATE. If, however, during the term of the Contract, the Contractor acquires or leases any automobiles that will be used in connection with performance under the Contract, the Contractor must obtain Business Automobile Liability Insurance that meets all of the requirements of this RFQ and provide proof of such coverage to THE STATE in accordance with the insurance requirements of any Contract resulting from this Solicitation.

## 3. **Workers' Compensation Insurance and Disability Benefits Requirements**

Sections 57 and 220 of the New York State Workers' Compensation Law require the heads of all municipal and state entities to ensure that businesses applying for contracts have appropriate workers' compensation and disability benefits insurance coverage. These requirements apply to both original contracts and renewals. Failure to provide proper proof of such coverage or a legal exemption will result in a rejection of a Bid or any Contract renewal. A Bidder may not be awarded a Contract unless proof of workers' compensation and disability insurance is provided to THE STATE. Proof of workers' compensation and disability benefits coverage, or proof of exemption must be submitted to THE STATE at the time of Bid submission, policy renewal, Contract renewal and upon request. Proof of compliance must be submitted on one of the following forms designated by the New York State Workers' Compensation Board. An ACORD form is not acceptable proof of New York State workers' compensation or disability benefits insurance coverage.

Proof of Compliance with Workers' Compensation Coverage Requirements:

- Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the Workers' Compensation Board's website ([www.wcb.ny.gov](http://www.wcb.ny.gov));
- Form C-105.2 (9/07), Certificate of Workers' Compensation Insurance, sent to THE STATE by the Contractor's insurance carrier upon request, or if coverage is provided by the New York State Insurance Fund, they will provide Form U-26.3 to THE STATE upon request from the Contractor; or
- Form SI-12, Certificate of Workers' Compensation Self-Insurance, available from the New York State Workers' Compensation Board's Self-Insurance Office, or
- Form GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance, available from the Contractor's Group Self-Insurance Administrator.

Proof of Compliance with Disability Benefits Coverage Requirements:

- Form CE-200, Certificate of Attestation for New York Entities With No Employees and Certain Out of State Entities, That New York State Workers' Compensation and/or Disability Benefits Insurance Coverage is Not Required, which is available on the Workers' Compensation Board's website ([www.wcb.ny.gov](http://www.wcb.ny.gov));
- Form DB-120.1, Certificate of Disability Benefits Insurance, sent to THE STATE by the Contractor's insurance carrier upon request; or
- Form DB-155, Certificate of Disability Benefits Self-Insurance, available from the New York State Workers' Compensation Board's Self-Insurance Office.

An instruction manual clarifying the New York State Workers' Compensation Law requirements is available for download at the New York State Workers' Compensation Board's website, <http://www.wcb.ny.gov>. Once on the site, click on the Employers/Businesses tab and then click on Employers' Handbook.

## 5.4 Tax and Finance Requirements

Tax Law § 5-a requires certain Contractors awarded State Contracts for commodities, services and technology valued at more than \$100,000 to certify to NYS Department of Taxation and Finance (DTF) that they are registered to collect New York State and local sales and compensating use taxes. The law applies to Contracts where the total amount of such Contractors' sales delivered into New York State is in excess of \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made, and with respect to any affiliates and Subcontractors whose sales delivered into New York State exceeded \$300,000 for the four quarterly periods immediately preceding the quarterly period in which the certification is made.

A Contractor is required to file the completed and notarized Form ST-220-CA with the Bid to THE STATE certifying that the Contractor filed the ST-220-TD with DTF. Only the Form ST-220-CA is required to be filed with THE STATE. The ST-220-CA can be found at [http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf). The ST-220-TD can be found at [http://www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf). Contractor should complete and return the certification forms within five (5) business days of request (if the forms are not completed and returned with Bid submission). Failure to make either of these filings may render a Contractor non-responsive and non-responsible. Contractor shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law. The ST-220-TD only needs to be filed once with DTF, unless the information changes for the Contractor, its affiliates, or its Subcontractors.

Vendors may call DTF at 518-485-2889 with questions or visit the DTF web site at <http://www.tax.ny.gov/> for additional information.

## 5.5 Opportunities for New York State Certified Minority and Women-Owned Business Enterprises

### **CONTRACTOR REQUIREMENTS AND PROCEDURES FOR EQUAL EMPLOYMENT AND BUSINESS PARTICIPATION OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES**

#### **NEW YORK STATE LAW**

Pursuant to New York State Executive Law Article 15-A, AGENCY recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned business enterprises and the employment of minority group members and women in the performance of AGENCY contracts.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings 16 1122F State Agency Quote Request | GSA Purchases of the study were published on April 29, 2010, under the title "The State of Minority and Women Owned Business Enterprises: Evidence from New York" ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of

minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that AGENCY establishes goals for maximum feasible participation of New York State Certified minority and women-owned business enterprises ("MWBE") and the employment of minority groups members and women in the performance of New York State contracts.

#### **Business Participation Opportunities for MWBEs**

For purposes of this solicitation, AGENCY has determined that GSA Schedule purchases made through the 1122 Public Safety Procurement Program do not offer sufficient opportunities to set additional goals for participation by MWBEs as subcontractors, services providers, or suppliers to Contractor. In addition to maintaining Small Business Subcontracting Program compliance, GSA Schedule Contractors are, however, encouraged to make every good faith effort to promote and assist the participation of MWBEs on this Contract for the provision of services and materials. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/?TN=ny>.

#### **Equal Employment Opportunity Requirements**

By submission of a Bid or proposal in response to this solicitation, the Bidder/Contractor agrees with all of the terms and conditions of Appendix A including Clause 12 - Equal Employment Opportunities for Minorities and Women. The Contractor is required to ensure that it and any subcontractors awarded a subcontract over \$25,000 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor, shall undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

Bidder further agrees, where applicable, to submit with the Bid a staffing plan on Form EEO 100 identifying the anticipated work force to be utilized on the Contract and if awarded a Contract, will, upon request, submit to AGENCY, a workforce utilization report identifying the workforce actually utilized on the Contract if known.

Further, pursuant to Article 15 of the Executive Law (the "Human Rights Law"), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-Contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of a prior criminal conviction and a prior arrest.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

#### **5.6 Participation Opportunities For New York State Certified Service-Disabled Veteran Owned Businesses**

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. AGENCY recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of AGENCY contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Offerors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, AGENCY conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/Veterans/default.asp>.

Contractor is encouraged to contact the Division of Service-Disabled Veteran's Business Development at 518-474-2015 to discuss methods of maximizing participation by SDVOBs on the Contract.

All forms are available at: <https://ogs.ny.gov/veterans>.

## 5.7 General Requirements

- A. The Bidder agrees to adhere to all State and Federal laws and regulations in connection with the Contract.
- B. The Bidder agrees that any Contract resulting from this RFQ may not be assigned, transferred, conveyed or the work subcontracted without the prior written consent of THE STATE.
- C. For purposes of any Contract resulting from this RFQ, the State will not be liable for any expense incurred by the Contractor for any parking fees or as a consequence of any traffic infraction or parking violations attributable to employees of the Contractor.
- D. The Commissioner's interpretation of specifications shall be final and binding upon the Contractor.
- E. The Commissioner of THE STATE will make no allowance or concession to the Bidder for any alleged misunderstanding because of quantity, quality, character, location or other conditions.
- F. AGENCY reserves the right to reject and bar from the facility any employee hired by the Contractor.

## 5.8 Procurement Rights

The State of New York reserves the right to:

- A. Reject any or all Bids received in response to the RFQ;
- B. Withdraw the RFQ at any time at the sole discretion of the State;
- C. Make an Award under the RFQ in whole or in part;
- D. Disqualify any Bidder whose conduct and/or Bid fails to conform to the requirements of the RFQ;
- E. Seek clarifications and revisions of the Bid;
- F. Amend the RFQ prior to the Bid opening to correct errors or oversights, or to supply additional information as it becomes available;
- G. Direct Bidders, prior to the Bid opening, to submit Bid modifications addressing subsequent RFQ amendments;
- H. Eliminate any mandatory, non-material requirements that cannot be complied with by all of the prospective Bidders;
- I. Waive any requirements that are not material;
- J. Utilize any and all ideas submitted in the Bids received;
- K. Adopt all or any part of a Bidder's Bid in selecting the optimum configuration;
- L. Negotiate with a Bidder within the Solicitation requirements to serve the best interests of the State. This includes requesting clarifications of any or all Bids;
- M. Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Bidder's Bid and/or to determine a Bidder's compliance with the requirements of the RFQ;
- N. Select and Award the Contract to other than the selected Offeror in the event of unsuccessful negotiations or in other specified circumstances as detailed in the RFQ;
- O. Accept and consider for Contract Award Bids with non-material Bid Deviations or non-material Bid defects such as errors, technicalities, irregularities, or omissions.

**Please Note:** The State is not liable for any cost incurred by a Proposer in the preparation and production of a proposal or for any work performed prior to the issuance of a Contract.

## 5.9 Debriefings

Any unsuccessful Bidder may request a debriefing regarding the reasons that the Bid submitted by the Bidder was not selected for Award. Requests for a debriefing must be made within 15 calendar days of notification by THE STATE that the Bid submitted by the Bidder was not selected for Award. Requests should be submitted in writing to a Designated Contact identified in the Solicitation.

## 5.10 Termination

- A.** The State may, upon thirty (30) days' notice, terminate the Contract resulting from this RFQ in the event of the awarded Bidder's failure to comply with any of the proposal's requirements unless the awarded Bidder obtained a waiver of the requirement. In addition, THE STATE may also terminate any Contract resulting from this RFQ upon ten (10) days written notice if the Contractor makes any arrangement or assignment for the benefit of the creditors.



## **B. Procurement Lobbying Termination**

The State reserves the right to terminate this Agreement in the event it is found that the certification filed by the Contractor in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the State may exercise its termination right by providing written notification to the Contractor in accordance with the written notification terms of this Agreement.

### **5.11 New York State Vendor File Registration**

Prior to being awarded a Contract pursuant to this Solicitation, the Bidder(s) and any designated authorized resellers who accept payment directly from the State, must be registered in the New York State Vendor File (Vendor File) administered by the Office of the State Comptroller (OSC) Vendor Management Unit. This is a central registry for all vendors who do business with New York State Agencies and the registration must be initiated by a State Agency. Following the initial registration, unique New York State ten-digit vendor identification numbers will be assigned to your company and to each of your authorized resellers (if any) for usage on all future transactions with New York State. Additionally, the Vendor File enables vendors to use the Vendor Self-Service application to manage all vendor information in one central location for all transactions related to the State of New York. If Bidder is already registered in the New York State Vendor File, list the ten digit vendor ID number on the Bid Proposal Form (Attachment 1). Authorized resellers already registered should list the ten digit vendor ID number along with the authorized reseller information.

If the Bidder is not currently registered in the Vendor File and is recommended for Award, the RFQ issuing entity's designated contact specified on the first page of this RFQ document shall provide and request completion of OSC Substitute W-9 Form. In addition, if authorized resellers are to be used, an OSC Substitute W-9 form should be completed by each of the designated authorized resellers and submitted to the Request For Quote (RFQ) issuing entity's designated contact listed on the first page of this document. The issuing entity's designated contact will initiate the vendor registration process for all Bidders recommended for Contract Award and their authorized resellers. Once the process is initiated, registrants will receive an email from OSC that includes the unique ten-digit vendor identification number assigned to the company and instructions on how to enroll in the online Vendor Self-Service application. For more information on the vendor file please visit: [http://www.osc.state.ny.us/vendor\\_management](http://www.osc.state.ny.us/vendor_management).

### **5.12 New York State Vendor Responsibility**

THE STATE conducts a review of prospective Contractors ("Bidders") to provide reasonable assurances that the Bidder is responsive and responsible. A For-Profit Business Entity Questionnaire (hereinafter "Questionnaire") is used for non-construction contracts and is designed to provide information to assess a Bidder's responsibility to conduct business in New York based upon financial and organizational capacity, legal authority, business integrity, and past performance history. By submitting a Bid, Bidder agrees to fully and accurately complete the Questionnaire. The Bidder acknowledges that the State's execution of the Contract will be contingent upon the State's determination that the Bidder is responsible, and that the State will be relying upon the Bidder's responses to the Questionnaire, in addition to all other information the State may obtain from other sources, when making its responsibility determination.

THE STATE recommends each Bidder file the required Questionnaire online via the New York State VendRep System. To enroll in and use the VendRep System, please refer to the VendRep System Instructions and User Support for Vendors available at the Office of the State Comptroller's (OSC) website at [http://www.osc.state.ny.us/vendrep/vendor\\_index.htm](http://www.osc.state.ny.us/vendrep/vendor_index.htm) or to enroll, go directly to the VendRep System online at: <https://portal.osc.state.ny.us>.

Vendors must provide their New York State Vendor Identification Number when enrolling. For information on how to request assignment of a Vendor ID, see the NYS Vendor File Registration section. OSC provides direct support for the VendRep System through user assistance, documents, online help, and a help desk. The OSC Help Desk contact information is located at <http://www.osc.state.ny.us/portal/contactbuss.htm>. Bidders opting to complete and submit the paper questionnaire can access this form and associated definitions via the OSC website at: [http://www.osc.state.ny.us/vendrep/forms\\_vendor.htm](http://www.osc.state.ny.us/vendrep/forms_vendor.htm).

In order to assist the State in determining the responsibility of the Bidder prior to Contract Award, the Bidder must complete and certify (or recertify) the Questionnaire no more than six (6) months prior to the Bid due date. A Bidder's Questionnaire cannot be viewed by THE STATE until the Bidder has certified the Questionnaire. It is recommended that all Bidders become familiar with all of the requirements of the Questionnaire in advance of the Bid opening to provide sufficient time to complete the Questionnaire.



The Bidder agrees that if it is awarded a Contract the following shall apply:

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of THE STATE, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of THE STATE, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of THE STATE issues a written notice authorizing a resumption of performance under the Contract.

The Contractor agrees that if it is found by the State that Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Contract. Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate THE STATE officials or staff, the Contract may be terminated by the Commissioner of THE STATE at the Contractor's expense where the Contractor is determined by the Commissioner of THE STATE to be non-responsible. In such event, the Commissioner of THE STATE may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

### **5.13 Ethics Compliance**

All Bidders/Contractors and their employees must comply with the requirements of §§73 and 74 of the Public Officers Law, other state codes, rules, regulations, and executive orders establishing ethical standards for the conduct of business with New York State. In signing the Contract, the Contractor certifies full compliance with those provisions for any present or future dealings, transactions, sales, contracts, services, offers, relations, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of Contract, and/or other civil or criminal proceedings as required by law.

### **5.14 Indemnification**

Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully defend, indemnify and hold harmless the State from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors, which shall arise from or result directly or indirectly from this Contract, without limitation; provided, however, that the Contractor shall not indemnify to the extent any claim, loss or damage arising hereunder is due to the negligent act, failure to act, gross negligence or willful misconduct of the State.

The State shall give Contractor: (i) prompt written notice of any action, claim or threat of suit, or other suit for which Contractor is required to fully indemnify the State, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action, claim or suit at the expense of Contractor. Notwithstanding the foregoing, the State reserves the right to join such action, at its sole expense, if it determines there is an issue involving a significant public interest.

In the event that an action or proceeding at law or in equity is commenced against the State arising out of a claim for death, personal injury or damage to real or personal tangible property caused by any intentional or willful act, gross negligence, or negligence of Contractor, its agents, employees, partners or Subcontractors, which shall arise from or result directly or indirectly from the Products supplied under this Contract, and Contractor is of the opinion that the allegations in such action in whole or in part are not covered by the indemnification and defense provisions set forth in the Contract, Contractor shall immediately notify THE STATE and the New York State Office of the Attorney General in writing and shall specify to what extent Contractor believes it is obligated to defend and indemnify under the terms and conditions of the Contract and to what extent it is not so obligated to defend and indemnify. Contractor shall in such event attempt to secure a continuance to permit the State to appear and defend their interests in cooperation with Contractor, as is appropriate, including any jurisdictional defenses the State may have. In the event of a dispute regarding the defense, the Contractor and the Attorney General shall try to reach an amicable resolution, but the Attorney General shall have the final determination on such matters.

### **5.15 Force Majeure**

Neither party hereto will be liable for losses, defaults, or damages under any Contract resulting from this solicitation which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of this solicitation, due to or because of acts of God, the public enemy, acts of government, earthquakes, floods, strikes, civil strife, fire or any other cause beyond the reasonable control of the party that was so delayed in performing or so unable to perform provided that such party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such party will resume full performance of such obligations and responsibilities promptly upon removal of any such cause.

### **5.16 Appendices, Exhibits and Attachments**

The Bidder's attention is directed to the appendices, exhibit and attachments hereto and hereby incorporated by reference and made part hereto as fully as if it were set forth at length herein. They are part of this solicitation and will be part of the subsequent Contract. The Bidder is responsible for adhering to all requirements of the appendices, exhibits.

### **5.17 Assignment of Claim**

Contractor hereby assigns to the State any and all claims for overcharges associated with this Contract that may arise under the antitrust laws of the United States, 15 USC Section 1, et seq. and the antitrust laws of the State of New York, General Business Law Section 340, et seq.

## Attachment 1

### Quote Proposal | Cost and Checklist

Contractor Name		Date	
GSA Contract No.			

The above Offeror agrees to provide Type in the product quantity and brief description here at the quote price below that includes any and all costs associated with providing the finished product delivered to the location detailed in delivery clause.

Product Description	Quantity	Unit of Measure	Price	Total Price

**NOTE: The requesting Agency must enter general requirements below.** Offeror must complete sections where asked to state specific information about the product. The Offeror should select either “YES” or “NO” for each requirement line item to indicate compliance for the product being offered. Failure to answer correctly, or failure to respond, may deem your quote as nonresponsive.

Manufacturer Name			
Name		Number	

Guaranteed Delivery Months		Days after Receipt of Purchase Order	
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Agency General Requirements (Type Requirements for Product to Comply With Below)	Quoted Item Complies (offeror select Yes or No)			
	YES		NO	
	YES		NO	
	YES		NO	
	YES		NO	
	YES		NO	
	YES		NO	
	YES		NO	

## Quote Proposal | Certification

By submitting a Quote in response to an 1122 Program Request for Quote (RFQ), all vendors agree to the following:

1. All terms and conditions as outlined in Attachment 2;
2. To provide one (1) copy of each required form, with original signature, as applicable, within five (5) business days of notification of selection; and,
3. To hold their quote as valid for no less than 60 calendar days or until agency has issued a Purchase Order.

All Quotes must be signed by a person authorized to commit the vendor to the terms of the Quote Documents and the content of the Quote (offer). Electronically-signed documents are not acceptable.

By signing you certify your full knowledge and acceptance of this REQUEST FOR QUOTE, Appendix A (Standard Clauses For New York State Contracts), and State Finance Law §139-d, §139-j and §139-k (Procurement Lobbying), and that all information provided is complete, true and accurate.

**Business Information**

Legal Business Name of Company Bidding:	
D/B/A — Doing Business As (if applicable):	

**Address**

Street	City	State	Zip

**Vendor Information**

<b>NYS Vendor Identification Number:</b>			
<b>Federal Tax Identification Number:</b> (do not use Social Security Number)			
<b>Vendor Responsibility</b> (choose one)	<b>Date Filed Online</b>		<b>Paper Copy Attached &amp; Date Filed</b>

**Designations** (check if applicable)

<b>Small Business</b>		<b>Service-Disabled Veteran-Owned Business (SDVOB)</b>	
<b>Minority-Owned Business Enterprise (MBE)</b>		<b>Woman-Owned Business Enterprise (WBE)</b>	

**Company Contact Information**

Name		Email		Phone	
Email Receiving Purchase Order (if different)					

**Bidder Signature**

Signature		Printed Name	
Title		Date	

**SPOC Approval**

Signature		Date	
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## Attachment 2

Completed by Offeror | Required Forms, Certifications, Terms and Conditions

<b>Offeror Disclosure of Prior Non-Responsibility Determinations</b>
<b>Offeror's Certifications of Compliance with State Finance Law § 139-k(5)</b>
<b>Offeror's Affirmation of Understanding of and Agreement pursuant to New York State Finance Law § 139-j (3) and § 139-j (6) (b)</b>
<b>NYS REQUIRED CERTIFICATIONS</b>
<b>Use of Service-Disabled Veteran-Owned Business Enterprise in Contract Performance</b>
<b>Encouraging Use of New York State Businesses in Contract Performance</b>
<b>NYS Department of Tax and Finance Forms</b> <a href="#">Contractor Certification to Covered Agency (ST-220-CA)</a> <a href="#">Contractor Certification (ST-220-TD)</a>
<b>Equal Employment Opportunities Staffing Plan</b> See Clause 5.5 of this agreement. <a href="#">Link Here For Your Agency EEO-100 Form</a>
<b>MWBE Utilization Plan</b> See Clause 5.5 of this agreement. <a href="#">Link Here for Your Agency MWBE-100 Form</a>
<b>Insurance Documents (Workers Compensation, Liability, and Disability Proof)</b> See Clause 5.3 of this agreement. On insurance documents, list the address below as the issuing agency as entity requesting:  Type your agency address for insurance purposes here
<b>Vendor Responsibility Questionnaire</b> See Clause 5.11 of this agreement. Prepare online: <a href="#">OSC VendRep System</a>

## Offeror Disclosure of Prior Non-Responsibility Determinations

### Background:

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offeror must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offeror” and “Governmental Entity” are defined in State Finance Law § 139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offeror fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offeror that fails to timely disclose accurate or complete information under this section, unless a finding is made that the award of the Procurement Contract to the Offeror is necessary to protect public property or public health safety, and that the Offeror is the only source capable of supplying the required Article of Procurement within the necessary time frame. See State Finance Law §§139-j (10)(b) and 139-k(3).

### Instructions:

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or contract documents, as applicable, for procurement contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

## Offeror Disclosure of Prior Non-Responsibility Determinations | Continued

Name of Individual or Entity Seeking to Enter into the Procurement Contract:

Address:

Name and Title of Person Submitting this Form:

Contract Procurement Number:

Date:

### Questions:

1. Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years? (Please check one):

No

Yes If yes, please answer the next questions.

2. Was the basis for the finding of non-responsibility due to a violation of State Finance Law § 139-j? (Please check one):

No

Yes

3. Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please check one):

No

Yes

4. If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.

Governmental Entity:	
Date of Finding of Non-Responsibility:	
Basis of Finding of Non-Responsibility: (Add additional pages as necessary)	

5. Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named individual or entity due to the intentional provision of false or incomplete information? (Please check one):

No

Yes

6. If yes, please provide details below.

**Offeror Disclosure of Prior Non-Responsibility Determinations | Continued**

Governmental Entity:

Date of Termination or Withholding of Contract:

(Add additional pages as necessary.)

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Offeror certifies that all information provided to the Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

By: \_\_\_\_\_  
Signature

Date:



### Offeror's Certification of Compliance with State Finance Law § 139-k (5)

New York State Finance Law §139-k(5) requires that every Procurement Contract award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offeror that all information provided to the Office of General Services with respect to State Finance Law §139-k is complete, true and accurate.

#### Offeror Certification:

*I certify that all information provided to the Office of General Services with respect to State Finance Law §139-k is complete, true and accurate.*

Name of Individual:

Date:

Title:

Offeror Company Name:

Offeror Company Address:

### Procurement Lobbying Termination

The Office of General Services reserves the right to terminate this contract in the event it is found that the certification filed by the Offeror in accordance with New York State Finance Law § 139k was intentionally false or intentionally incomplete. Upon such finding, the Office of General Services may exercise its termination right by providing written notification to the Offeror in accordance with the written notification terms of this contract.

**Offeror's Affirmation of Understanding of and Agreement pursuant to New York State Finance Law § 139-j (3) and § 139-j (6) (b)**

New York State Finance Law §139-j(6)(b) provides that:

Every Governmental Entity shall seek written affirmations from all Offerors as to the Offeror's understanding of, and agreement to, comply with the Governmental Entity's procedures relating to permissible contacts during a Governmental Procurement pursuant to subdivision three of this section.

**Offeror Affirmation:**

*Offeror affirms that it understands and agrees to comply with the procedures of the Government Entity relative to permissible contacts as required by New York State Finance Law § 139-j (3) and § 139-j (6) (b).*

Name of Individual:

Date:

Title:

Offeror Company Name:

Offeror Company Address:

## NYS Required Certifications

### Nondiscrimination in Employment in Northern Ireland MacBride Fair Employment Principles

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In accordance with Section 165 of the State Finance Law, the bidder, by submission of this bid, certifies that it or any individual or legal entity in which the bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the bidder, either (answer yes or no to one or both of the following, as applicable):

1. have business operations in Northern Ireland      No      Yes, and **if yes:**
2. shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of compliance with such principles.      No      Yes

### Non-Collusive Bidding Certificate

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In accordance with Section 139-d of the State Finance Law, by submitting its bid each bidder and each person signing on behalf of any other bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor.
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor.
3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

In the event that the Bidder is unable to certify as stated above, the Bidder shall provide a signed statement which sets forth in detail the reasons why the Bidder is unable to furnish the certificate as required in accordance with State Finance Law § 139-d(1)(b).

### Diesel Emission Reduction Act

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Pursuant to N.Y. Environmental Conservation Law § 19-0323 (the “Law”) it is a requirement that heavy duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology (“BART”) and ultra-low sulfur diesel fuel (“ULSD”). The requirement of the Law applies to all vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities. It also requires that such vehicles owned, operated by or on behalf of, or leased by State agencies and State or regional public authorities with more than half of its governing body appointed by the Governor utilize BART.

The Law may be applicable to vehicles used by contract vendors “on behalf of” State agencies and public authorities and require certain reports from contract vendors. All heavy duty diesel vehicles must have BART by the deadline provided in the Law. The Law also provides a list of exempted vehicles. Regulations set forth in 6 NYCRR Parts 248 and 249 provide further guidance. The Bidder hereby certifies and warrants that all heavy duty vehicles, as defined in the Law, to be used under this contract, will comply with the specifications and provisions of the Law, and 6 NYCRR Parts 248 and 249.

## Executive Order No. 177 Certification

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The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

## Small Business Certifications

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### State Finance Law § 163(1)(j) (Authorizes Award of Quantitative Factor Credit for Small Business Status in Evaluation for Best Value Contracts)

For purposes of New York State Finance Law § 163(1)(j), the contractor certifies that it:

☐ **IS NOT** a Small Business as defined in New York State Executive Law § 310(20).

☐ **IS** a Small Business as defined in New York State Executive Law § 310(20).

“Small Business” is defined under New York State Executive Law § 310(20) as a business that:

- A. has a significant business presence in New York demonstrated through one of the following:
  1. pays taxes in New York State, or
  2. purchases New York State products or materials, or
  3. has any payroll in New York State
- B. is independently owned and operated;
- C. is not dominant in its field; and,
- D. employs less than 300 persons.

### State Finance Law § 163(6) (Authorizes Discretionary Purchases of Commodities or Services from Small Business Concerns)

For purposes of New York State Finance Law § 163(6), the contractor certifies that it:

☐ **IS NOT** a Small Business Concern or Small Business as defined in New York State Finance Law § 160(8).

☐ **IS** a Small Business Concern or Small Business as defined in New York State Finance Law § 160(8).

“Small Business Concern” or “Small Business” is defined under New York State Finance Law § 160(8) as a business that:

- A. is resident in New York State;
- B. is independently owned and operated;
- C. is not dominant in its field; and
- D. employs 100 or less persons.

**By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this Certifications document and that all information provided is complete, true and accurate.**

Authorized Signature				Date	
Print Name				Title	
Company Name					
D/B/A — Doing Business As (if applicable)					
Address					
City		State		Zip	

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## Use of Service-Disabled Veteran-Owned Business Enterprise in Contract Performance

Article 17-B of the Executive Law enacted in 2014 acknowledges that Service-Disabled Veteran-Owned Businesses (SDVOBs) strongly contribute to the economies of the State and the nation. As defenders of our nation and in recognition of their economic activity in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. SDVOBs can be readily identified on the directory of certified businesses at:

[http://ogs.ny.gov/Core/docs/CertifiedNYS\\_SDVOB.pdf](http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf)

Bidders/proposers need to be aware that all authorized users of this contract will be strongly encouraged to the maximum extent practical and consistent with legal requirements of the State Finance Law and the Executive Law to use responsible and responsive SDVOBs in purchasing and utilizing commodities, services and

technology that are of equal quality and functionality to those that may be obtained from non-SDVOBs. Furthermore, bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses consistent with current State law.

Utilizing SDVOBs in State contracts will help create more private sector jobs, rebuild New York State's infrastructure, and maximize economic activity to the mutual benefit of the contractor and its SDVOB partners. SDVOBs will promote the contractor's optimal performance under the contract, thereby fully benefiting the public sector programs that are supported by associated public procurements.

Public procurements can drive and improve the State's economic engine through promotion of the use of SDVOBs by its contractors. The State, therefore, expects bidders/proposers to provide maximum assistance to SDVOBs in their contract performance. The potential participation by all kinds of SDVOBs will deliver great value to the State and its taxpayers.

**Bidders/proposers can demonstrate their commitment to the use of SDVOBs by responding to the questions below and including the responses with their bid/proposal:**

Bidder/Proposer Name

Solicitation #

Bidder/Proposer Address

Are you a bidder/proposer that is a NYS-certified SDBOV?      Yes      No      If yes, what is your DSDVBD Control #?

Will NYS-certified SDVOBs be used in the performance of this contract?      Yes      No

If yes, identify the NYS-certified SDVOBs that will be used below (if more than 4 identified, please attach an additional form):

### NYS-Certified SDVOB 1:

Name

Address

Control #      Contract #      Total % Work Performed      \$ Amount

Nature of Participation

### NYS-Certified SDVOB 2:

Name

Address

Control #      Contract #      Total % Work Performed      \$ Amount

Nature of Participation

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

Contractor will report on *actual* participation by each SDVOB during the term of the contract to the contracting agency/authority on a quarterly basis according to policies and procedures set by the contracting agency/authority.

**NOTE:** Information about set asides for SDVOB participation in public procurement can be found at: <http://www.ogs.ny.gov/Core/SDVOBA.asp>, which provides guidance for State agencies in making determinations and administering set asides for procurements from SDVOBs.

Encouraging Use of New York State Businesses in Contract Performance

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders/ proposers for this Contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the Contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

Bidders/proposers need to be aware that all authorized users of this Contract will be strongly encouraged, to the maximum extent practical and consistent with legal requirements, to use responsible and responsive New York State businesses in purchasing commodities that are of equal quality and functionality and in utilizing services and technology. Furthermore, Bidders/proposers are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law.

Utilizing New York State businesses in State contracts will help create more private sector jobs, rebuild New York’s infrastructure, and maximize economic activity to the mutual benefit of the Contractor and its New York State business partners. New York State businesses will promote the Contractor’s optimal performance under the Contract, thereby fully benefiting the public sector programs that are supported by associated procurements.

Public procurements can drive and improve the State’s economic engine through promotion of the use of New York businesses by its Contractors. The State therefore expects Bidders/proposers to provide maximum assistance to New York businesses in their use of the Contract. The potential participation by all kinds of New York businesses will deliver great value to the State and its taxpayers.

Bidders/proposers can demonstrate their commitment to the use of New York State businesses by responding to the question below:

1. Will New York State Businesses be used in the performance of this Contract?    Yes                      No

If **yes**, identify New York State Business(es) that will be used (Attach identifying information or list below)

Business Name		City	
Business Name		City	
Business Name		City	
Business Name		City	
Business Name		City	
Business Name		City	
Business Name		City	
Business Name		City	

# **APPENDIX A**

## **STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

**PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.**



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## **STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the

Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-

a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the

agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of

\$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The

contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by

any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and

women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) ) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

**22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

**27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT.** Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.